

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5495 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DALPATBHAI G DOSHI & ANR.

Versus

VINAY VYAS, DY. COLLECTOR, PALANPUR & ANR.

Appearance:

MS KUSUM M SHAH for Petitioner

MR HL JANI for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 14/10/96

ORAL JUDGEMENT

Having heard the learned counsel for the parties,

I do not find any substance in this Special Civil Application.

It is not in dispute that the Green Neem Tree and Karji tree grown on the side of the main road on the north of the Kunvarba Mahila Vidya Mandir were cut down by the contractor, who is not a party here, without

taking permission of the appropriate authority. The provisions of sec.3(1) of Saurashtra Felling of Trees Act has been violated in the present case. The petitioners herein, who were at the relevant time the President and Chief Officer of the Municipality were given the notice under sec. 3(1) of the aforesaid Act as to why the trees cut down may not be confiscated. The contractor has cut down the trees under the contract given by the President and the Chief Officer of the Nagar Palika Palanpur and the Mamlatdar Palanpur under its order dated 8-2-1985 has imposed fine of Rs.500/- to each of the petitioners. The Mamlatdar, Palanpur held the petitioners to be guilty of the contravention of the provisions of sec.3(1) of the aforesaid Act. The petitioners have filed appeal against the said order before the Dy. Collector, Palanpur which came to be dismissed under the order dated 6th April, 1985. Hence this Special Civil Application.

The only contention made by the learned counsel for the petitioners is that the contract for cutting of the trees was given to the contractor by the petitioners in pursuance of the decision taken by the Sanitary Committee of the Nagar Palika, Palanpur, and as such, the petitioners could not have been made liable for the contravention of the provisions of sec.3(1) of the aforesaid Act. I do not find any substance in this contention of the learned counsel for the petitioners. The petitioner no.1 was the President of the Palanpur Municipality at the relevant time though he may not be the member or the President of the Sanitary Committee which has resolved to give the contract for cutting of the trees and the petitioner no.2 was the Chief Officer of the Palanpur Municipality. The learned counsel for the petitioners does not dispute that none of the petitioners has raised any objection against the resolution which has been passed by the Sanitary Committee. The petitioner no.1 being the President and the petitioner no.2 being the Chief Officer of the Palanpur Municipality, it was obligatory for them to see that the decision taken by the Sanitary Committee was strictly in accordance with the provisions of Saurashtra Felling of Trees Act and not contrary to it. Merely on the ground that these two persons were not the party to the decision taken by the Sanitary Committee, they cannot be excused for the non-compliance of the provisions of sec.3 of the aforesaid Act. They are the persons who have given the contract and further they have not raised any objection against the resolution, and as such, both the authorities below have not committed any illegality in holding them guilty in the present case and imposing fine of Rs.500/- to each.

In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated.

zgs/-